

**MINUTES OF THE COMMON COUNCIL
IN REGULAR SESSION
September 9, 2014**

DRAFT

A regular session of the Winchester Common Council was held on Tuesday, September 9, 2014 in the Council Chambers, Rouss City Hall. President John Willingham called the meeting to order at 7:00 p.m.

PRESENT: Councilor Jeff Buettner, Evan Clark, John Hill, Corey Sullivan and John Tagnesi; Vice-President Milt McInturff; Mayor Elizabeth Minor; Vice-Mayor Les Veach; President John Willingham (9)

ABSENT: None (0)

MOMENT OF SILENCE – President Willingham led the citizens and councilors in a moment of silence.

PLEDGE OF ALLEGIANCE – Mayor Minor led the citizens and councilors in the Pledge of Allegiance.

APPROVAL OF MINUTES – August 12, 2014 Regular Meeting and August 26, 2014 Work Session

Vice-President McInturff moved to approve the minutes as presented. *The motion was seconded by Councilor Buettner then unanimously approved 9/0.*

REPORT OF THE MAYOR

Mayor Minor stated she did not have a report to present.

REPORT OF THE CITY MANAGER

City Manager Eden Freeman stated it has been an exciting couple of weeks in Winchester. Police Dog Kota will be featured on the Today Show on Thursday during the 9:00 hour for the Hero Dogs Award. The Virginia Main Street organization is in Winchester today and tomorrow for a meeting. Over 3000 people were in attendance at the Tail Gating Party last weekend on the mall and the Winchester Fire and Rescue Department rose over \$20,000 for Muscular Dystrophy over the Labor Day weekend.

REPORT OF THE CITY ATTORNEY

City Attorney Anthony Williams stated he did not have a report to present.

PUBLIC HEARINGS**1.1 O-2014-30: Second Reading – ORDINANCE TO GRANT FRANCHISE TO USE PUBLIC PROPERTY FOR THE PROVISION OF CABLE SERVICES IN THE CITY OF WINCHESTER**

President Willingham asked the Deputy Clerk if any bids were received. Deputy Clerk Kari Van Diest presented the one bid received from Comcast of California/Maryland/Pennsylvania/Virginia/West Virginia, LLC.

President Willingham asked if there were any other bids to be received. No other bids were presented.

President Willingham opened the public hearing and asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:03 p.m.

Vice-President McInturff moved to approve the bid. *The motion was seconded by Vice-Mayor Veach then unanimously approved 9/0.*

Vice-President McInturff moved to approve O-2014-30. *The motion was seconded by Mayor Minor then adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:*

<u>MEMBER</u>	<u>VOTE</u>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Sullivan	Aye
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
President Willingham	Aye

President Willingham stated he would entertain a motion to add to the agenda: Motion to authorize Ms. Freeman to execute the franchise agreement contemporaneous or subsequent tonight. *The motion was made by Vice-President McInturff, seconded by Vice-Mayor Veach, then unanimously approved 9/0.*

Vice-President McInturff moved to authorize the City Manager to execute the franchise agreement. *The motion was seconded by Vice-Mayor Veach then unanimously approved 9/0.*

1.2 O-2014-32: Second Reading – AN ORDINANCE TO ADOPT ARTICLE IV SECTION 20-32 OF THE WINCHESTER CITY CODE PERTAINING TO COLLECTION OF COURT FEES

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:05 p.m.

Vice-President McInturff moved to approve O-2014-32. The motion was seconded by Councilor Hill then adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Sullivan	Aye
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
President Willingham	Aye

1.3 O-2014-31: Second Reading – AN ORDINANCE AUTHORIZING AN ENCROACHMENT WITHIN THE PUBLIC RIGHT-OF-WAY ADJACENT TO 118 ½ - 124 EAST CORK STREET (*To allow steps down from a porch in the right of way*)

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:06 p.m.

Vice-Mayor Veach moved to approve O-2014-31. The motion was seconded by Vice-President McInturff then adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Sullivan	Aye
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
President Willingham	Aye

1.4 O-2014-33: Second Reading – AN ORDINANCE TO REVISE THE PROFFERS AND DEVELOPMENT PLAN ASSOCIATED WITH 1.295 ACRES OF LAND AT 1720 VALLEY AVENUE (*Map Number 231-04-K-8A*) CONDITIONALLY ZONED HIGHWAY COMMERCIAL (B-2) DISTRICT WITH PLANNED UNIT DEVELOPMENT (PUD) AND CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY **RZ-14-350** (*Amendment to*

proffers and development plan of former Coca-Cola building to add an additional option for providing more one bedroom units)

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:07 p.m.

Vice-President McInturff moved to approve O-2014-33. The motion was seconded by Councilor Tagnesi then adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Sullivan	Aye
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
President Willingham	Aye

- 1.5 O-2014-34:** Second Reading – AN ORDINANCE TO CONDITIONALLY REZONE 33.40 ACRES OF LAND AT 200 MERRIMANS LANE FROM CONDITIONAL RESIDENTIAL BUSINESS (RB-1) DISTRICT WITH CORRIDOR ENHANCEMENT (CE) DISTRICT OVERLAY, CONDITIONAL MEDIUM DENSITY RESIDENTIAL (MR) DISTRICT AND LOW DENSITY RESIDENTIAL (LR) DISTRICT TO EDUCATION, INSTITUTION AND PUBLIC USE (EIP) DISTRICT, HIGHWAY COMMERCIAL (B-2) DISTRICT, RESIDENTIAL BUSINESS (RB-1) DISTRICT, MEDIUM DENSITY RESIDENTIAL (MR) DISTRICT AND LR DISTRICT; AND TO CONDITIONALLY REZONE 3.37 ACRES OF LAND AT 418 MERRIMANS LANE FROM LR DISTRICT TO EIP DISTRICT AND B-2 DISTRICT **RZ-14-351** (*Replaces the 2005 conditional zoning on the Ridgewood Orchard property and establishes zoning for school and commercial use on that site and the DBL Holdings property*)

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:09 p.m.

Planning Director Tim Youmans stated there has been a change in the proffers that adds an additional use that would be prohibited in the B-2 district for gun sales establishments.

Vice-Mayor Veach moved to approve O-2014-34 as amended with the additional proffer. The motion was seconded by Councilor Tagnesi then adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Sullivan	Aye
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
President Willingham	Aye

1.6 O-2014-35: Second Reading – AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 27-10.1 OF THE WINCHESTER CITY CODE TO CHANGE REASSESSMENT DEADLINES AND TO CLARIFY REASSESSMENT RESPONSIBILITIES

Ann Burkholder, 521 Jefferson Street, spoke as the elected Commissioner of Revenue in opposition of the amendments stating they will cause more confusion for the citizens instead of the intended clarification. She also spoke against removing cooperation and knowledge from a process and stated it will only end with poor results. Ms. Burkholder stated there is a conflict in the amendment with the Code of Virginia to allow the contractor to make corrections to errors outside of a reassessment period.

President Willingham asked if there was anyone else wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:15 p.m.

Vice-Mayor Veach moved to approve O-2014-35. The motion was seconded by Councilor Sullivan then adopted by the affirmative roll-call vote of a majority of all members of the Common Council, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Sullivan	Aye
Councilor Tagnesi	Aye
Vice-Mayor Veach	Aye
President Willingham	Aye

1.7 CU-14-331: Conditional Use Permit – Request of Joshua Schakola on behalf of Verizon Wireless for rooftop telecommunications facilities at 103 East Piccadilly Street (Map Number 173-01-P-6) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay

Tracy Themark of 1117 Oronold Street in Alexandria, Virginia, offered to answer any questions Council may have.

President Willingham asked if there was anyone else wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:17 p.m.

Vice-President McInturff moved to approve CU-14-331. *The motion was seconded by Mayor Minor then unanimously approved 9/0.*

- 1.8 CU-14-166:** Conditional Use Permit – Request of Oakcrest Properties for a two family dwelling at 314 South Kent Street (*Map Number 193-01-T-3*) zoned Limited High Density Residential (HR-1) District with Historic Winchester (HW) District overlay

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:18 p.m.

Planning Director Tim Youmans distributed a potential revised motion for Council to consider that accommodates the applicant the opportunity to provide parking on site but still maintains the spots in the parking lot if needed.

Mayor Minor moved to approve CU-14-166 as amended to provide parking on site or in the parking lot if needed. *The motion was seconded by Vice-President McInturff then unanimously approved 9/0.*

- 1.9 CU-14-415:** Conditional Use Permit – Request of Dale A. Massey dba Piccadilly's Public House and Restaurant for entertainment establishment use at 121-125 East Piccadilly Street (*Map Number 173-01-P-8*) zoned Central Business (B-1) District with Historic Winchester (HW) District overlay

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:21 p.m.

Councilor Clark moved to approve CU-14-415. *The motion was seconded by Mayor Minor then unanimously approved 9/0.*

- 1.10 CU-14-432:** Conditional Use Permit – Request of Lynn Miller on behalf of the City Of Winchester for a telecommunications tower at 231 East Piccadilly Street (*Map Number 173-01-Q-1*) zoned Central Business (B-1) District

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:20 p.m.

Vice-President McInturff moved to approve CU-14-432. *The motion was seconded by Mayor Minor then unanimously approved 9/0.*

- 1.11 Public Hearing:** To receive the nominations and citizen input on the appointment of Karen Holman as an “At-Large Ward 2” member of the City School Board to a four year term commencing September 23, 2014 and ending June 30, 2018.

President Willingham asked if there was anyone wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:21 p.m.

2.0 PUBLIC COMMENTS

Kathy Gregg, resident of 1203 Redbud Road and owner of a business at 661 Millwood Avenue, asked Council to keep the name of Millwood Avenue.

Mathew Wade of Harrisonburg, Virginia, spoke in favor of cleaner air by the use of electric vehicles and electric vehicle charging stations.

President Willingham asked if there was anyone else wishing to address Council on this issue. Seeing none, he closed the public hearing at 7:26 p.m.

3.0 CONSENT AGENDA

3.1 O-2014-37: First Reading – AN ORDINANCE TO VACATE APPROXIMATELY 4,500 SQUARE FEET OF PUBLIC RIGHT OF WAY AT THE SOUTH END OF ROBERTS STREET AND CONVEY IT TO THE OWNER OF 1818 ROBERTS STREET TO ASSEMBLE IN WITH THAT LOT **SV-14-433**

3.2 O-2014-38: First Reading – AN ORDINANCE TO AMEND SECTION 16.1 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO ALLOWABLE BUILDING HEIGHT IN THE EDUCATION, INSTITUTION AND PUBLIC USE (EIP) DISTRICT. **TA-14-354**

3.3 R-2014-34: Resolution – Authorize the renaming of portions of East Jubal Early Drive and Apple Blossom Drive to Millwood Avenue

3.3 Motion to direct the Clerk of Council to prepare a Certificate of Appreciation for Melinda Kramer for her service on the Old Town Development Board

3.4 Motion to direct the Clerk of Council to prepare a Certificate of Appreciation for Jennifer Beatley for her service on the Planning Commission

3.5 Motion to direct the Clerk of Council to prepare a Certificate of Appreciation for Lauri Bridgeforth for her service on the Old Town Development Board

3.6 Motion to direct the Clerk of Council to prepare a Certificate of Appreciation for Joe Kalbach for his service on the Economic Development Authority

Vice-President McInturff moved to approve the Consent Agenda as presented. *The motion was seconded by Councilor Buettner then unanimously approved 9/0.*

4.0 AGENDA

4.1 Motion to recommend the appointment of _____ as a member of the Board of Zoning Appeals for an unexpired term ending April 30, 2016.

Vice-President Milt McInturff moved to recommend the appointment of Don Crawford as a member of the Board of Zoning Appeals to fill the unexpired term of Richard Ridgell ending April 30, 2016. *The motion was seconded by Vice-Mayor Veach then unanimously approved 9/0.*

- 4.2** Motion to recommend the appointments of _____ and _____ as alternate members of the Board of Zoning Appeals each to a 5 year term expiring July 31, 2019

Vice-President McInturff moved to recommend the appointments of Cheryl Anderson and Peter Gates as alternate members of the Board of Zoning Appeals. *The motion was seconded by Mayor Minor then unanimously approved 9/0.*

President Willingham stated he would entertain a motion to add to the executive session the discussion or consideration of the subject of the acquisition of an interest in real property for a public purpose where if made public, the bargaining position or financial interest of the City would be adversely affected. *The motion was made by Vice-President McInturff, seconded by Vice-Mayor Veach, then unanimously approved 9/0.*

5.0 EXECUTIVE SESSION

- 5.1** MOTION TO CONVENE IN EXECUTIVE SESSION PURSUANT TO §2.2-3711(A)(7) OF THE CODE OF VIRGINIA FOR THE PURPOSE OF RECEIVING LEGAL ADVICE AND STATUS UPDATE FROM THE CITY ATTORNEY AND LEGAL CONSULTATION REGARDING THE SUBJECT OF SPECIFIC LEGAL MATTERS REQUIRING THE PROVISION OF LEGAL ADVICE BY THE CITY ATTORNEY AND MATTERS OF ACTUAL OR PROBABLE LITIGATION AND PURSUANT TO §2.2-3711(A)(3) FOR THE PURPOSE OF DISCUSSION OR CONSIDERATION OF THE SUBJECT OF THE ACQUISITION OF AN INTEREST IN REAL PROPERTY FOR A PUBLIC PURPOSE WHERE IF MADE PUBLIC, THE BARGAINING POSITION OR FINANCIAL INTEREST OF THE CITY WOULD BE ADVERSELY AFFECTED

Vice-President McInturff moved to convene into executive session at 7:28 p.m. *The motion was seconded by Councilor Clark then unanimously approved 9/0.*

Vice-President McInturff moved to reconvene in open session at 8:02 p.m. *The motion was seconded by Councilor Clark then unanimously approved 9/0.*

Upon returning, each member certified that only public business matters lawfully exempted from open meeting requirements of the Virginia Freedom of Information Act were discussed during the closed meeting, and that only those public business matters identified in the motion which convened the closed meeting were heard, discussed, or considered during the closed meeting.

A roll call vote was taken, the ayes and nays being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Councilor Buettner	Aye
Councilor Clark	Aye
Councilor Hill	Aye
Vice-President McInturff	Aye
Mayor Minor	Aye
Councilor Sullivan	Aye
John Tagnesi	Aye
Vice-Mayor Veach	Aye
President Willingham	Aye

6.0 ADJOURNMENT

Vice-President McInturff moved to adjourn the meeting at 8:02 p.m. *The motion was seconded by Vice-Mayor Veach then unanimously approved 9/0.*

Kari J. Van Diest, CMC
Deputy Clerk of the Common Council